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Federal Communications Commission

DA 99-701

DISPATCHED BY
 Before the
FEDERAL COMMUNICATIONS COMMISSION
 Washington, D.C. 20554

In the Matter of)	
)	
International Settlement Rates)	IB Docket No. 96-261
)	
Petition of AT&T, MCI WorldCom and)	DA 99-479
Enforcement of International Settlement)	
Benchmark Rates for Services)	
with the Netherlands Antilles)	
)	

ORDER ON MOTION TO EXTEND COMMENT PERIOD

Adopted: April 13, 1999

Released: April 13, 1999

By the Chief, Telecommunications Division:

1. On February 25, 1999, AT&T, MCI WorldCom, and Sprint ("petitioners") jointly filed a petition for enforcement of international settlements benchmark rates for services with the Netherlands Antilles.¹ The petitioners allege that, despite good faith efforts, they have been unable to negotiate a benchmark rate of \$0.15 with the carrier in the Netherlands Antilles, Antelecom N.V. ("Antelecom"), as required by the Commission's *Benchmarks Order*.² The petitioners request that the Commission enforce the *Benchmarks Order* by requiring all U.S. carriers to pay settlement rates no higher than the benchmark rate of \$0.15 for all traffic exchanged with the Netherlands Antilles from January 1, 1999. We placed the Benchmarks Enforcement Complaint on public notice on March 10, 1999 and established a schedule of April 14, 1999 for comments and April 26, 1999 for reply comments.³ Antelecom has filed a motion for extension of time until July 13, 1999 to file comments on the Benchmarks Enforcement Petition, and until July 23, 1999 to file reply comments.⁴ Finding that Antelecom has not shown good cause for extending the comment period by the full ninety days

¹ Petition of AT&T, MCI WorldCom and Sprint for Enforcement of International Settlements Benchmark Rates for Services With the Netherlands Antilles, IB Docket No. 96-261 (filed February 25, 1999) ("*Benchmark Enforcement Petition*").

² *International Settlement Rates*, IB Docket No. 96-261, *Report and Order*, 12 FCC Rcd 19806 (1997) (*Benchmarks Order*), *aff'd sub. nom.*, *Cable & Wireless*, No. 97-1612 (D.C. Cir. Jan. 12, 1999).

³ Public Notice, DA 99-479 (March 10, 1999).

⁴ *International Settlement Rates*, Docket No. 96-261, Petition of AT&T, MCI WorldCom and Sprint for Enforcement of International Settlements Benchmark Rates for Services with the Netherlands Antilles, Motion for Extension of Time to File Comments and Reply Comments (filed by Antelecom on April 7, 1999) ("*Antelecom Motion*").

requested, we deny its motion. However, we extend the comment period by two weeks in order to ensure that we have a full record before us.

2. In support of its petition, Antelecom states that an extension of ninety days is necessary to allow Antelecom to ascertain "whether meaningful and productive negotiation is possible with each of the Petitioners."⁵ Antelecom further states that, in the absence of progress toward successful renegotiation of settlement rates on the United States-Netherlands Antilles route, Antelecom will need additional time to engage in consultation and coordination with its government "regarding the course of action that it would be required to take at such a juncture."⁶ Finally, Antelecom states that grant of its motion would allow it sufficient time beyond the end of negotiations to provide complete comments to the Commission.

3. The petitioners filed an opposition to Antelecom's motion, in which they object to a ninety day extension but propose a one week extension.⁷ Petitioners dispute that additional time is needed to permit Antelecom to engage in good faith negotiations. They point out that Antelecom has been on notice since the *Benchmarks Order* was adopted that U.S. carriers must negotiate settlement rates in compliance with that order. They further note that AT&T met with Antelecom on four separate occasions prior to the filing of the Benchmarks Enforcement Petition to attempt to negotiate a rate that complies with the *Benchmarks Order* and that AT&T has told Antelecom it remains available for further negotiations at any time.⁸

4. The Commission's rules provide that extensions of time will not be routinely granted.⁹ We find that Antelecom has not shown good cause for extending the period for comments in response to the Benchmarks Enforcement Petition by the full ninety days requested, until July 13, 1999. Antelecom has had ample notice that the Commission would enforce the requirement that U.S. carriers negotiate a settlement rate no higher than the benchmark rate of \$0.15 with Antelecom by January 1, 1999. The Commission stated unequivocally in the *Benchmarks Order*, which was adopted on August 7, 1997, that it would "take appropriate enforcement measures as may be necessary to ensure that U.S. carriers satisfy [the] benchmark requirements."¹⁰ In addition, the International Bureau sent a letter on December 18, 1998 to government authorities in the Netherlands Antilles, with a copy to Antelecom, informing them that, "by January 1, 1999, U.S. carriers are required to reach a settlement rate of \$0.15 with carriers in [their] country," and that "the FCC will be required to take appropriate enforcement

⁵ Antelecom Motion at 2.

⁶ *Id.* at 2-3.

⁷ International Settlement Rates, Docket No. 96-261, Petition of AT&T, MCI WorldCom and Sprint for Enforcement of International Settlements Benchmark Rates for Services with the Netherlands Antilles,, DA 99-479, Opposition of AT&T, MCI WorldCom, and Sprint (filed on April 13, 1999).

⁸ *Id.* at 2-3.

⁹ 47 C.F.R. § 1.46(a).

¹⁰ *Benchmarks Order*, 12 FCC Rcd 19806, at ¶ 185.

measures" if this requirement is not met.¹¹ Thus, Antelecom should have been on notice for well over a year, since the adoption of the *Benchmarks Order*, and has been on notice for almost four months, since the International Bureau sent a letter to the appropriate authorities in the Netherlands Antilles and at Antelecom, that U.S. carriers were required to negotiate a settlement rate of \$0.15 with Antelecom by January 1, 1999.

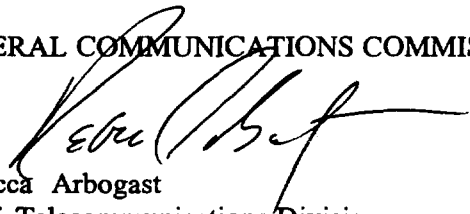
5. We conclude that, in light of this advance notice, Antelecom had adequate opportunity to renegotiate its settlement rate with U.S. carriers and to confer with government authorities in the Netherlands Antilles. We would prefer that accounting rate disputes be settled by commercial negotiation, but the Commission cannot delay indefinitely the benchmark enforcement procedures established in the *Benchmarks Order*. We thus conclude that Antelecom has not shown that there is good cause to grant its request to extend for ninety days the comment period. However, in the interest of ensuring that we have a full record before us, we will grant an additional fourteen days, until April 28, 1999, for Antelecom and other interested parties to file comments on the Benchmarks Enforcement Petition. Under the procedures adopted in the *Benchmarks Order*, *Benchmarks Order*, reply comments will be due ten days after the deadline for comments, on May 10, 1999.

6. Accordingly, IT IS ORDERED, pursuant to Section 4(i) of the Communications Act, as amended, 47 U.S.C. § 4(i), and Section 1.46 of the Commission's rules, 47 C.F.R. § 1.46, that Antelecom's Motion IS DENIED.

7. IT IS FURTHER ORDERED that an extension of time of fourteen days to file comments and reply comments in this proceeding is GRANTED. Comments are due April 28, 1999 and reply comments are due May 10, 1999.

8. This order is issued under Section 0.261 of the Commission's rules, 47 C.F.R. § 0.261, and is effective upon adoption.

FEDERAL COMMUNICATIONS COMMISSION



Rebecca Arbogast
Chief, Telecommunications Division
International Bureau

¹¹ Letter from Regina M. Keeney, Bureau Chief, International Bureau, Federal Communications Commission, to Mr. M. Adriaans, Minister, Department of Traffic and Transportation, Netherlands Antilles, December 18, 1998 (copy to Hendrik Eikelenboon, Managing Director, Antelecom and Anthony Leito, Manager, International Relations, Antelecom).